

6 add.

The use or possession of firearms or gases for control of offenders will be consistent with state law and MDOC policies and procedures. Additionally, all such items will be prohibited at the facility except by local law enforcement and MDOC officials. The Helena Prerelease Program will have appropriate storage for firearms, etc. that may be brought on-site by local law enforcement personnel or transport officials.

6. Assumed control

CONTRACTOR must provide for MDOC approval, detailed plans that MDOC may use to assume control of the Program. Detailed plans shall include, but not be limited to: A plan identifying the process of transferring the Program operation from CONTRACTOR to MDOC upon termination of the Contract.

G. Compensation/Billing

DEPARTMENT agrees to pay a daily per diem rate where "daily" means each day, or part of a day, including the first but not the last day of program participation/confinement. This applies to each subsection listed under Section G (1) below. DEPARTMENT will compensate CONTRACTOR at new negotiated rates effective July 1st of the beginning of the Fiscal Year if a new contract amendment has been signed by all the parties. The parties may extend Contract approval by up to 30 days if there are extenuating circumstances (e.g. Department does not initiate negotiations in a timely manner, special sessions, pending legal opinion, or per statutory effective date). Contract approval will not be unreasonably withheld by either party. If there are extenuating circumstances, DEPARTMENT will pay the new negotiated rates to CONTRACTOR beginning on the first day of the month following the date of the last signature. If the parties cannot agree to the Contract terms by July 31st, the parties will resolve the impasse with mediation and the cost of mediation will be split equally between the parties. DEPARTMENT shall compensate CONTRACTOR for successful delivery of the services provided pursuant to Contract in the following manner:

1. Compensation:

a. Total contract amount

FY – 2014 (July 1, 2013 – June 30, 2014)

Contract Maximum reimbursement shall not exceed **\$2,554,166.15** for the contract period beginning July 1, 2013 and ending June 30, 2014. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.

FY – 2015 (July 1, 2014 – June 30, 2015)

Contract Maximum reimbursement shall not exceed **\$2,600,659.85** for the contract period beginning July 1, 2014 and ending June 30, 2015. The contract maximum amount includes all compensation noted in this contract except "special needs" and stipend funding.

b. Offender per diem rates

FY – 2014 (July 1, 2013 – June 30, 2014)

Helena Prerelease: For the contract period beginning July 1, 2013 and ending June 30, 2014, DEPARTMENT will pay CONTRACTOR a per diem rate of **\$61.07 (sixty-one and 07/100 dollars) per offender**, per day. Program capacity at the Helena Prerelease facility is **ninety-nine (99)** male Prerelease beds, with maximum compensations calculated at an Average Daily Population of **ninety-nine (99)** beds for the contract year.

Helena Prerelease- WATCH Aftercare: For the contract period beginning July 1, 2013 and ending June 30, 2014, DEPARTMENT will pay CONTRACTOR a per diem rate of **\$54.93 (fifty-four and 93/100 dollars) per offender**, per day. Program capacity at the Helena Prerelease- WATCH Aftercare facility is six (6) male Aftercare beds, with maximum compensations calculated at an Average Daily Population of six (6) beds for the contract year.

FY – 2015 (July 1, 2014 – June 30, 2015)

Helena Prerelease: For the contract period beginning July 1, 2014 and ending June 30, 2015, DEPARTMENT will pay CONTRACTOR a per diem rate of **\$62.29 (sixty-two and 29/100 dollars) per offender**, per day. Program capacity at the Helena Prerelease facility is **ninety-nine (99)** male Prerelease beds, with maximum compensations calculated at an Average Daily Population of **ninety-nine (99)** beds for the contract year.

Helena Prerelease- WATCH Aftercare: For the contract period beginning July 1, 2014 and ending June 30, 2015, DEPARTMENT will pay CONTRACTOR a per diem rate of **\$56.03 (fifty-six and 03/100 dollars) per offender**, per day. Program capacity at the Helena Prerelease- WATCH Aftercare facility is six (6) male Aftercare beds, with maximum compensations calculated at an Average Daily Population of six (6) beds for the contract year.

The daily per diem rate paid to CONTRACTOR for **transitional living program (TLP) services** – provided in accordance with Section 2 (C)(8) of this Agreement – is **\$21.00 per offender, per day**. CONTRACTOR'S goal is to maintain ten (10) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 1(G)(1)(a), is based upon this goal and the corresponding dollar amount included in the contract maximum.

The daily per diem rate paid to CONTRACTOR for **enhanced supervision program (ESP) services** – provided in accordance with Section 2(C)(9) of this Agreement – is **\$15.00 per offender, per day**, with a guarantee of payment for six (6) ESP offenders, per day, regardless of the actual number of offenders in the program. CONTRACTOR'S goal is to maintain six (6) offenders in this program at all times and the maximum amount paid to CONTRACTOR, as noted in Section 1(G)(1)(a), is based upon this goal and the corresponding dollar amount included in the contract maximum. CONTRACTOR will collect \$5.00 per day, per offender, for which ESP services are rendered. Collection from offenders must occur prior to the DEPARTMENT being invoiced for the current month. The invoice to the DEPARTMENT for ESP will be reduced by \$5.00 per day for each offender

CONTRACTOR collects from. Any amounts uncollected by CONTRACTOR will be billed to the DEPARTMENT via monthly invoice.

CONTRACTOR shall not exceed the combined capacity level for the facility. Capacity levels between male, female, TLP, and ESP beds/slots listed above may be adjusted within this combined capacity total to account for occasional population fluctuations. However, CONTRACTOR may only exceed the combined capacity level by five (5) beds or slots (including prerelease, TLP, or ESP), or 5% of the combined capacity number, whichever is greater, within a 30 day period. The DEPARTMENT, at its discretion, may request the CONTRACTOR exceed its capacity level by more than 5 beds or 5% of the combined capacity number, whichever is greater, based on population needs, or other need identified by the DEPARTMENT.

During an offender's detention placement, DEPARTMENT will continue payment to CONTRACTOR at the contracted per diem rate to allow CONTRACTOR to "hold" the bed until the offender's return. However, upon determination by DEPARTMENT Hearing Officer that the offender will be returned to a higher level of custody from County detention center, CONTRACTOR will discontinue receiving per diem payments for the offender and may immediately fill the bed with another offender.

DEPARTMENT shall pay CONTRACTOR for male and female resident beds left temporarily vacant by offenders who are placed in a **jail facility**, those serving a **sanction**, (and not a revocation), and those administratively transferred for medical or mental health stabilization to the START, ASRC Programs, and jail facilities, and who will be returning to the prerelease center they were removed from within a thirty (30) day time period. DEPARTMENT will not compensate CONTRACTOR for sanctions lasting longer than 30 days unless approved in writing by the DEPARTMENT. Longer stays require Department Administrator approval.

DEPARTMENT will be responsible for paying all offender County jail per diem charges directly to the County. CONTRACTOR will bill offender and collect from funds available in resident account, to the extent deemed reasonable by CONTRACTOR, the DOC-established County Jail per diem rate per offender, per day, for those offenders that serve jail days while in the prerelease program. DEPARTMENT will bill CONTRACTOR the DOC-established County Jail per diem rate per offender, per day, via a monthly invoice, for county jail days billed to DEPARTMENT by the County jail. DEPARTMENT will approve and forward invoice to CONTRACTOR. CONTRACTOR will remit to DEPARTMENT collectable amounts from offenders as determined reasonable by CONTRACTOR. CONTRACTOR shall not be responsible for any amount invoiced, but not paid from resident accounts. Unpaid invoice amounts will not be carried forward from month to month.

DEPARTMENT shall reimburse CONTRACTOR for expenses when transportation to a detention facility is required for an offender more than 30 miles away from the facility. DEPARTMENT will pay for staff coverage at a rate of no more than \$15 per hour and per diem for mileage and meals at the state-specified rates. DEPARTMENT will reimburse CONTRACTOR for actual costs as provided by the CONTRACTOR.

Payments made for transportation expenses will not be counted towards the maximum amount paid under the contract in section 1(G)(1)(a), and will not count towards contract capacity.

c. Special funds (special needs, stipends, sex offenders)

CONTRACTOR must follow ACCD 5.1.202 Prerelease Stipend and Special Needs Funding.

DEPARTMENT shall pay CONTRACTOR a share of fifty thousand and 00/100 dollars (\$50,000) per fiscal year to be allocated by contract capacity between Alternatives, Inc., Great Falls Prerelease Services, Inc., Missoula Correctional Services, Inc., Community, Counseling & Correctional Services, Inc., Boyd Andrew Community Services, and Gallatin County to pay for expenses related to *stipend requests*, and allocated by Facility contract capacity. **Boyd Andrew Community Services (Helena Prerelease) allocation amount for FY 2014 will be \$5,837.00 and \$5,837.00 for FY 2015.** This amount will not be counted toward the maximum amount paid under the contract in section 1(G)(1)(a).

DEPARTMENT shall pay CONTRACTOR a share of fifty thousand and 00/100 dollars (\$50,000) per fiscal year to be distributed on a first come, first serve basis between Alternatives, Inc., Great Falls Prerelease Services, Inc., Missoula Correctional Services, Inc., Community, Counseling & Correctional Services, Inc., Boyd Andrew Community Services, and Gallatin County to pay for expenses related to necessary services provided to offenders qualifying as *"special needs"* offenders. This amount will not be counted toward the maximum amount paid under the contract in section 1(G)(1)(a).

In addition to the daily per diem rate, DEPARTMENT will pay CONTRACTOR an additional \$11.00 per sex offender per day. CONTRACTOR may utilize up to seven (7) **beds**, included within its current contract capacity, for this purpose, not to **exceed \$28,105.00 in FY 2014 and \$28,105.00 in FY 2015.** This additional money for sex offender services is already included in the total contract maximum amounts listed in Section 1(G)(1)(a). CONTRACTOR must follow ACCD 3.5.100 Sex Offender Services.

d. Position compensation (nurse, mental health)

DEPARTMENT shall pay CONTRACTOR a one-time payment of thirty-one thousand and 00/100 dollars (\$31,000) per fiscal year, for no less than fifteen (15) hours per week of service from a registered nurse. The amount of payment for this service will be pro-rated, should nursing service not be available for an entire fiscal year. Should CONTRACTOR provide sick call, CONTRACTOR must comply with all applicable laws and regulations regarding practices of nursing and medicine.

DEPARTMENT shall pay CONTRACTOR for actual utilization and delivery of mental health services provided in accordance with ACCD 4.5.200 Healthcare Responsibilities. Payment will be based upon current Medicaid rates, not to exceed **\$58,500.00** (fifty- eight thousand five hundred and 00/100 dollars) annually.

e. Booter Aftercare per diem (Great Falls PRC only)—not applicable.

2. Billing/Payment:

- a. All payments made under this Contract shall be made only upon submission by CONTRACTOR of an Invoice specifying the amounts due for contractual services rendered during the preceding month and certifying that services requested under the Contract have been performed in accordance with the Contract. Electronic invoices provided by DEPARTMENT shall be submitted no later than the 10th of each month and shall contain each offender name and (AO) number (Adult Offender # (AO#)) participating in the Helena Prerelease and WATCH Aftercare Programs, the date of Program entry, and date of release, if applicable. CONTRACTOR must follow ACCD 1.2.300 Institutional/Non-institutional.
- b. DEPARTMENT agrees to pay CONTRACTOR within 30 days following receipt of a correct invoice. Invoices are subject to audit and adjustment by DEPARTMENT before and after payment is made. Unless such invoice is subjected to a special review or audit, DEPARTMENT will make every effort to pay CONTRACTOR or provide written explanation of exception, within 15 days of DEPARTMENT receiving a correct invoice.
- c. The per diem rate constitutes the sole and exclusive payment by DEPARTMENT for the provision of all services required herein and shall remain in effect until changed by mutual agreement of both parties, except as otherwise specifically provided in this Contract.
- d. CONTRACTOR must follow ACCD 1.1.700 Compliance Monitoring. DEPARTMENT may withhold payments to CONTRACTOR in an amount equal to the additional costs to the DEPARTMENT or \$1,000.00 per month, whichever is greater, for failure to perform in accordance with the terms of this Agreement. However, prior to withholding payment, DEPARTMENT shall notify CONTRACTOR [and the MFFA (hereinafter defined, and if facility is financed by MFFA)] in writing, of its failure to perform. The notice shall specify acts or omissions constituting the default. If CONTRACTOR fails to remedy the default or submit an action plan deemed acceptable by DEPARTMENT within 60 days of receiving notice, DEPARTMENT may withhold payments. DEPARTMENT may allow CONTRACTOR additional time, as appropriate, provided CONTRACTOR demonstrates a good faith effort to achieve compliance.
- e. The Contract number must be referenced on all invoices and correspondence pertaining to this Contract.
- f. CONTRACTOR shall maintain a male population consistency of 50% institutional offenders based on a 95% occupancy rate of total contracted male beds. To determine the male offender population consistency percentage, only male resident beds will be considered. Transitional Living and Enhanced Supervision will not be included in this figure. DEPARTMENT will conduct random audits to determine if CONTRACTOR is maintaining a male population consistency of 50% institutional offenders based on a 95% occupancy rate. If the institutional offender population consistency falls below 50% of the occupancy rate for three (3) consecutive months, with adequate referrals from the DEPARTMENT, DEPARTMENT will deduct 2% off the current per diem rate on the fourth month to continue on a month to month basis until CONTRACTOR regains the required population consistency. If it is determined DEPARTMENT is not providing at least 50% institutional referrals, CONTRACTOR will not be penalized.

g. DEPARTMENT shall not reimburse CONTRACTOR for any offender whose length of stay extends beyond 200 days unless specifically authorized and approved in writing by the PRC Contract Manager or designee, prior to the expiration of the 200-day period.

h. Not applicable.

3. Bonding (If financed with MFFA)

In order to provide financing of CONTRACTOR'S prerelease center facility and improvements to such facility in July, 2000 CONTRACTOR requested the issuance of \$2,245,000 in tax-exempt bonds (the "Series 2000 Bonds") by the Montana Health Facility Authority (currently known as the Montana Facility Finance Authority and referred to herein as "MFFA") and a loan of the proceeds of the Series 2000 Bonds to CONTRACTOR pursuant to Montana Code Annotated Sections 90-7-226 through 228. As security for the Series 2000 Bonds, the MFFA required a written contract for services between CONTRACTOR and DEPARTMENT, which was executed July 19, 2000 and approved by MFFA pursuant to Section 90-7-226(1) MCA (the "July 2000 Contract"). In May, 2004 CONTRACTOR also requested financing by MFFA for an expansion of its facilities by the issuance of \$250,000 in aggregate principal amount of MFFA bonds (the "Series 2004 Bonds"). CONTRACTOR also requested financing by MFFA in August 2005 for an expansion of its facilities by the issuance of \$1,300,000 in aggregate principal amount of MFFA bonds (the "Series 2005 Bonds") (collectively the Series 2000, Series 2004 and Series 2005 Bonds are referred to as the "Bonds"). The July 2000 Contract (as amended) required DEPARTMENT to commit to the following provisions during the term of the Bonds (and DEPARTMENT hereby ratifies these commitments in this contract):

- a. Payment by DEPARTMENT for additional reimbursement for the cost of the new facility and the maintenance of a 115% debt service coverage for the Bonds. In addition, DEPARTMENT will review the CONTRACTOR'S yearly (audited) and quarterly (unaudited) financial statements (which the CONTRACTOR agrees to timely provide to DEPARTMENT for such review) to determine compliance with the Debt Service Coverage Requirement; and
- b. guaranty of payment by DEPARTMENT for 75% of the contracted bed space. The amount of payment is designed to cover CONTRACTOR'S fixed costs for a guaranteed 75% of contracted bed space.
- c. As part of the compensation and deducted monthly from DEPARTMENT'S regular payments to CONTRACTOR, by August 15th of each year, DEPARTMENT shall pay, on behalf of CONTRACTOR, to U.S. Bank National Association, as Trustee (the "Trustee") of the Bonds under an Indenture of Trust dated as of July 1, 2000, as supplemented for the issuance of the Series 2004 and Series 2005 Bonds (the "Indenture"), the following amounts:
 - i. the principal of and interest on the Bonds coming due in the following 12 months;
 - ii. the Program Expenses (as defined in the Indenture);
 - iii. any amounts necessary to make the Reserve Fund equal to the Reserve Requirement (as defined in the Indenture);
 - iv. any amounts due under a Capital Reserve Account Agreement between the MFFA and the Board of Investments (as defined in the Indenture); and
 - v. any amounts necessary to be paid into the Rebate Fund (as defined in the